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Atty Docket: 42P10335

Remarks

Reconsideration of the above referenced application in view of the enclosed amendment and remarks is requested. Claim 26 has been amended to overcome the Examiner's objection. Claims 1-3, 6-13, 16-23, and 26-36 are now pending.

ARGUMENT

The Examiner objects to the Specification and asserts that the phrase "pixel below the" should be deleted. This objection is respectfully traversed and it is believed that the description is correct as originally filed. The specification describes a two step method of smoothing and then performing lowpass filtering using a 2-diminsional NxN filter to each pixel in the image. On page 2, the process is described as "[a] filter is applied to an image as follows. The filter matrix is overlaid on a block of NxN (e.g., 3x3) pixels." The 3x3 pixels are part of the image. On page 3, it is described that "The resulting value is stored as a pixel in an intermediary smoothed image. The pixel in the intermediary smoothed image is at the same location in the smoothed image as the center pixel in the block of NxN pixels that were filtered in the original image. To process other pixels, the filter matrix is moved to an adjacent pixel in the original image. The filter matrix may be moved horizontally or vertically." [emphasis added]

The lowpass filtering is performed using a one or 2-dimensional filter. On page 4, it is described that "[t]he lowpass filter is moved over the smoothed image, and filters the smoothed image, in much the same way as the 3x3 filter described above." The lowpass filter uses two passes, one horizontal (by row) and one vertical (by column). It is described that the order of row then column or column then row is irrelevant. The phrase in question follows:

"The value is assigned to a pixel in the enhanced image that has the same location in the enhanced image as the pixel below the center pixel of the lowpass filter in the smoothed image." [emphasis added]

It will therefore be apparent to one of ordinary skill in the art that with an NxN or Nx1 filter, there is a center pixel in the filter. When the Nx1 filter is used vertically (column), it will

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be obvious that there is a pixel below the center pixel. It will also be apparent to one of ordinary skill in the art that an image is made of many rows and columns of pixels. The illustration in Fig. 2 shows only one row for simplicity, and is not meant to be limiting.

In all independent Claims, Applicant's invention requires *smoothing the image using a sharply peaked filter*. The Examiner relies on the Sato reference (Sato et al., JP 403259193 A) to show this limitation. This rejection is respectfully traversed as improper. Applicant respectfully requests that the Examiner issue a new non-final office action addressing the following issue.

Sato et al. is a foreign language document. The Examiner is required to obtain a translation of this document prior to applying the document as a reference in a rejection. MPEP § 706.02(II), entitled RELIANCE UPON ABSTRACTS AND FOREIGN LANGUAGE DOCUMENTS IN SUPPORT OF A REJECTION, unequivocally states:

"If the document is in a language other than English and the examiner seeks to rely on that document, a translation must be obtained so that the record is clear as to the precise facts the examiner is relying upon in support of the rejection." (Emphasis added).

The English translation of the Abstract clearly fails to show that smoothing is performed with a sharply peaked filter. It is unknown what the 3x3 matrix and Fig. 1, as referenced by the Examiner, teach or suggest, as the Japanese document has not been translated to English. Thus, it is improper for the Examiner to make any assumptions as to what is being taught by this reference.

Since each independent Claim recites the limitation of a sharply peaked filter, and the Examiner has failed to show a prima facie case of obviousness, Applicant respectfully requests that Claims 1-3, 6-13, 16-23, and 26-36 be allowed to issue at the earliest possible time, or that the Examiner provide a new non-final office action with the required translation of the reference relied upon.

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CONCLUSION

In view of the foregoing, Claims 1-3, 6-13, 16-23, and 26-36 are all in condition for allowance. If the Examiner has any questions, the Examiner is invited to contact the undersigned at (703) 633-6845. Early issuance of Notice of Allowance is respectfully requested. Please charge any shortage of fees in connection with the filing of this paper, including extension of time fees, to Deposit Account 02-2666 and please credit any excess fees to such account.

Respectfully submitted,

Dated: 30 Mar. 2006

/ Joni D. Stutman-Horn /

Joni D. Stutman-Horn, Reg. No. 42,173
Patent Attorney
Intel Corporation
(703) 633-6845

c/o Blakely, Sokoloff, Taylor & Zafman, LLP
12400 Wilshire Blvd.
Seventh Floor
Los Angeles, CA 90025-1030